

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	No. 4:92CR130-DJS
)	
CLAYBRAN POWELL, JR.,)	
)	
Defendant.)	

ORDER

A jury found defendant Claybran Powell, Jr. guilty of two counts -- possession of cocaine base with intent to distribute and use of a firearm during a drug trafficking crime. On December 17, 1993, the Court sentenced defendant to an aggregate term of 300 months' imprisonment, consisting of 240 months on the drug count and a consecutive 60 months on the firearm count. Defendant has filed a motion for reduction of sentence pursuant to 18 U.S.C. §3582(c)(2) based on the recent retroactive amendment of the United States Sentencing Guidelines applicable to crack cocaine offenses. Upon careful consideration of the entire record in this matter and applicable law, the Court makes the following determinations.

Defendant has proceeded pro se with his §3582 motion, but has requested the appointment of counsel to represent him. There is no right to counsel in a resentencing under §3582(c)(2). See e.g. United States v. Townsend, 98 F.3d 510, 512-13 (9th Cir.

1996); United States v. Whitebird, 55 F.3d 1007, 1011 (5th Cir. 1995); United States v. Reddick, 53 F.3d 462, 465 (2nd Cir. 1995). The motion for appointment of counsel will be denied.

The recent Sentencing Guidelines amendments afford no relief to defendant Powell. The 240 months of imprisonment imposed on the crack cocaine offense resulted from the applicable mandatory minimum sentence required by statute. The amendments to the Sentencing Guidelines have no effect on the statutory minimum sentence of imprisonment. United States v. Peters, 524 F.3d 905, 907 (8th Cir. 2008); United States v. Black, 523 F.3d 892, 892-893 (8th Cir. 2008); United States v. Jones, 523 F.3d 881, 882 (8th Cir. 2008).

Accordingly,

IT IS HEREBY ORDERED that defendant's motion for appointment of counsel [Doc. #2] is denied.

IT IS FURTHER ORDERED that defendant's motion for reduction of sentence pursuant to 28 U.S.C. §3582(c)(2) [Doc. #3] is denied.

Dated this 26th day of August, 2008.

/s/Donald J. Stohr
UNITED STATES DISTRICT JUDGE